



# राजपत्र, हिमाचल प्रदेश

## हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

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बुधवार, 16 मई, 2018 / 26 वैशाख, 1940

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हिमाचल प्रदेश सरकार

लोक निर्माण विभाग

अधिसूचना

शिमला—2, 09 मई, 2018

**सं0पी0बी0डब्ल्यू0(बी0)एफ(5) 31 / 2013.—यतः हिमाचल प्रदेश के राज्यपाल को यह प्रतीत होता है कि हिमाचल प्रदेश सरकार को सरकारी व्यय पर सार्वजनिक प्रयोजन हेतु नामतः गांव नंगल निहाल, तहसील नालागढ़, जिला सोलन, हिमाचल, तहसील नालागढ़, जिला सोलन, हिमाचल प्रदेश में रा० उच्च मार्ग—21ए पिन्जौर—बद्दी—नालागढ़ —स्वारघाट को चौड़ा करने के लिए भूमि अर्जित करनी अपेक्षित है, अतएव एतद्वारा**

यह अधिसूचित किया जाता है कि उक्त परिक्षेत्र में जैसा कि निम्न विवरणी में निर्दिष्ट किया गया है, उपरोक्त प्रयोजन के लिए भूमि का अर्जन अपेक्षित है।

2. यह अधिसूचना ऐसे सभी व्यक्तियों को, जो इससे सम्बन्धित हो सकते हैं, की जानकारी के लिए भूमि अर्जन, पुनर्वास और पुनर्वर्वस्थापन में उचित प्रतिकर और पारदर्शिता अधिकार अधिनियम, 2013 (2013 का 30) की धारा-11 के उपबन्धों के अन्तर्गत जारी की जाती है।

3. पूर्वोक्त धारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राज्यपाल प्रदेश इस समय इस उपक्रम में कार्यरत सभी अधिकारियों उनके कर्मचारियों और श्रमिकों को इलाके की किसी भी भूमि में प्रवेश करने और सर्वेक्षण करने तथा उस धारा द्वारा अपेक्षित अथवा अनुमत: अन्य सभी कार्यों को करने के लिए सहर्ष प्राधिकार देते हैं।

4. कोई भी हितबद्ध व्यक्ति जिसे उक्त परिक्षेत्र में कथित भूमि के अर्जन पर कोई आपत्ति हो तो वह इस अधिसूचना के प्रकाशित होने के साठ दिन की अवधि के भीतर लिखित रूप में भू अर्जन समाहर्ता, लोक निर्माण विभाग, विन्टर फिल्ड शिमला (हि० प्र०) के समक्ष अपनी आपत्ति दायर कर सकता है।

### विवरणी

जिला	तहसील	गांव	खसरा नं०	रकबा (बीघा में)
सोलन	नालागढ़	नंगल निहाल	860 / 817 / 727 / 1	0-1
			कित्ता-1	0-1

आदेश द्वारा,  
हस्ताक्षरित /—  
अति० मुख्य सचिव (लोक निर्माण)।

## LABOUR AND EMPLOYMENT DEPARTMENT

### NOTIFICATION

*Dated, 11th April, 2018*

**No. Shram(A)6-1/2018 (Awards) Shimla.**—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Reference/ Application	Title	Section
1.	Ref.74/2009	Sh. Shyam Lal V/s The General Manager, Maypex Remedies (P)Ltd. Village Thana, Baddi, Tehsil Nalagarh, Distt. Solan, H.P.	10
2.	Ref. 55/2009	Sh. Mukesh Sharma V/s The General Manager, Maypex Remedies (P) Ltd. Village Thana, Baddi, Tehsil Nalagarh, Distt. Solan, H.P.	10

3.	Ref.185/2017	Sh.Dharmender Kumar V/s M/S Patel Engineering Limited, Shongtong, Distt. Kinnaur, H.P.	10
4.	Ref.151/2017	Sh. Kewal Krishan V/s M/S Patel Engineering Limited, Shongtong, Distt. Kinnaur, H.P.	10
5.	Ref.150/2017	Sh. Anil Kumar V/s M/S Patel Engineering Limited, Shongtong, Distt. Kinnaur, H.P.	10
6.	Ref.182/2017	Sh. Sunder Singh V/s M/S Patel Engineering Limited, Shongtong, Distt. Kinnaur, H.P.	10
7.	Ref.183/2017	Sh. Diwan Singh V/s M/S Patel Engineering Limited, Shongtong, Distt. Kinnaur, H.P.	10
8.	Ref.184/2017	Sh. Bhageshwari Prasad Singh V/s M/S Patel Engineering Limited, Shongtong, Distt. Kinnaur, H.P.	10
9.	Ref.139/2017	Sh. Balbir Singh V/s M/S Concept Industries, Nalagarh, Distt. Solan, H.P.	10
10.	Ref. 140/2017	Sh. Jagdev Singh V/s M/S Concept Industries, Nalagarh, Distt. Solan, H.P.	10
11.	App. 22/2017	Sh. Devender Kumar V/s M/S Krishna Thermopack, VPO Belideor, Tehsil Nalagarh, Distt. Solan, H.P.	2-A

By order,

NISHA SINGH, IAS  
Addl .Chief Secretary (Lab. & Emp.).

21.7.2017

**Present:** Shri A.N Sharma, Advocate for petitioner.

Shri Rajiv Sharma, Advocate for respondent.

This order shall dispose of the preliminary issue framed on 25.7.2014 by this Court. Briefly the case of the petitioner is that since, 1st June, 2006, he was employed in the respondent company as machine operator and he had worked with full devotion, honesty and to the best of his abilities but the respondent started creating labour problems and violation of labour laws in the company, hence, the petitioner along-with some other workers have made a representation/ordinary demand letter before the management and that the respondent company had ignored the said demand letter and started torturing the petitioner and on 7.8.2007, a show cause notice was issued to him which was replied by him on 8.8.2007. It is further stated that again by issuing another show cause notice the respondent company tried to implicate the petitioner in a false case as a false allegation of quarrel and misbehave has been leveled against him and thereafter another notice on the same facts with an intention to terminate his services has been issued to him and *vide* chargesheet dated 31.8.2007, the petitioner was chargesheeted and Shri Sanjeev Sharma was appointed as an enquiry officer. It is also stated that the petitioner requested the enquiry officer for the defence assistant while holding the enquiry but the enquiry officer refused his request and the enquiry conducted by the enquiry officer was against the principles of natural justice as no reasonable opportunity of being heard was afforded

to him (petitioner). Against this back-drop a prayer has been made that the termination order dated 3.12.2007 be set aside and the respondent be directed to reinstate the services of the petitioner with all monetary/consequential benefits.

2. By filing reply, the respondent contested the claim wherein preliminary objections have been taken that the petitioner has not come to this Court with clean hands and that the petitioner has filed the claim in routine. On merits, it has been asserted that the petitioner time and again committed grave misconduct in the factory and he was not hearing to any superior officer, hence, for breaking discipline, the respondent passed the order of dismissal. It is further asserted that the petitioner indulged in grave misconduct with his team leader Mr. Ishwar Dutt Sharma and on his written complaint, the respondent issued show cause notice to the petitioner and he was called upon to file the reply which was not found satisfactory and as such the respondent took a decision to chargesheet him in order to bring out the truth and he was chargesheeted as per the model standing orders depicted in Himachal Pradesh (Industrial Employment Standing Orders) Rules 1973 and Amended Rules 1991. Since, the replies filed by the petitioner were not found satisfactory, hence, the respondent took a decision to hold a domestic enquiry and Shri Sanjeev Sharma Advocate was appointed as an enquiry officer to enquire into the matter as per the principles of natural justice and as per the model standing orders depicted in H.P. (Industrial employment Standing Orders) Rules, 1973 and Amended Rules 1991 applicable to the petitioner. It is denied that the enquiry officer had denied the defense assistance to the petitioner. It is asserted that the enquiry officer conducted the fair and impartial enquiry as per law and the principles of natural justice and he gave notice of enquiry to the petitioner and he (petitioner) participated in the enquiry proceedings and on each and every date, the copies of the proceedings and statement of the witnesses were supplied to the petitioner and he was given full opportunities to cross-examine the witnesses of the respondent and he (petitioner) was given full opportunities to lead his evidence in defence and even the papers supplied by the petitioner were duly exhibited by the enquiry officer. The report of enquiry officer dated 14.11.2007 is based on the documents supplied by both the parties and after the enquiry, the services of the petitioner were dismissed vide orders dated 3.12.2007 and his full & final financial benefits were also released. The respondent prayed for the dismissal of the claim petition.

3. Rejoinder not filed.

4. Pleadings of the parties gave rise to the following issues which were struck on 23.9.2011 by this Court.

1. Whether the dismissal of the services of the petitioner by the respondent on the basis of enquiry is in violation of the provisions of the Industrial Disputes Act, 1947?

*OPP..*

2. If issue No.1 proved in affirmative to what relief of service benefits the petitioner is entitled to?

*OPP..*

3. Whether the petitioner has suppressed material facts? If so its effect?

*OPR..*

4. Whether the petition is not maintainable?

*OPR..*

5. Relief.

5. Before, I proceed further, it is important to mention here that after framing of issues, aforesaid, the case was listed for the evidence of petitioner and on 3.7.2013, the statement of petitioner was recorded and his evidence was closed and thereafter the case was listed for the evidence of the respondent but on 25.10.2013, the respondent filed an application for framing of preliminary issue which was allowed by this Court *vide* order dated 25.7.2014 and framed the following preliminary issues:

1. Whether the domestic enquiry conducted against the petitioner is unfair and violative of the principles of natural justice as alleged?

*OPP..*

2. Relief.

6. Thereafter, the parties were allowed to lead evidence on preliminary issue. But despite having been afforded several opportunities to lead evidence, the petitioner failed to lead any evidence on preliminary issue, hence, *vide* order dated 12.1.2016, the evidence of petitioner on preliminary issue was closed and the case was listed for the evidence of the respondent. The respondent examined two RWs in support of preliminary issue.

7. I have heard the learned counsel for the parties and have also gone through the entire record pertaining to the enquiry as well as the evidence led before this Court.

8. In support of his case, before framing of preliminary issue, the petitioner himself appeared into the witness box as PW-1 to depose that he was engaged by the respondent company *w.e.f.* the year, 2006 and they have raised demand notice regarding issuance of identity card and ESI card upon which the respondent company issued letter to them wherein false allegation *qua* sleeping at 2.30 P.M. under tree during duty hours has been leveled against him which was replied by him and thereafter the company again leveled false allegation regarding quarrel with Ishwar Dutt and he was chargesheeted on 31.8.2007 and then a domestic enquiry was conducted and he was not made known by the company regarding the appointment of enquiry officer. He further deposed that he was not afforded opportunity of being heard despite the fact that he had filed an application in this regard and the enquiry officer had conducted the enquiry as per the wishes of the company and after the closure of the enquiry, the enquiry officer had obtained his signatures without reading the enquiry proceedings and that his services were terminated on false allegations. In cross-examination, he admitted that he filed the reply Ex. R-1 to show cause notice. He further admitted that he was working under the supervision of Ishwar Dutt. He denied that on 25.8.2007 at about 11.30 A.M. he abused Ishwar Dutt and threatened him (Ishwar Dutt) with dire consequences. He admitted that regarding the aforesaid incident, he was issued letter Ex. R-2 which was replied by him *vide* letter Ex. R-3. He further admitted that he received chargesheet Ex. R-4 which was replied by him *vide* letter Ex. R-5 and regarding the appointment of enquiry officer Shri Sanjeev Sharma, letters Ex. R-6 and letter Ex. R-7 were received by him. He also admitted that he was intimated by the enquiry officer *vide* letter Ex. R-8 to participate in the enquiry proceedings. He admitted that he wrote a letter Ex. R-9 to Abhinav Sood regarding the appointment of R.D. Rawat as defence assistant. He admitted that the enquiry officer told him that he (petitioner) can engage any co-worker in his defence but he (petitioner) cannot engage any outsider. He further admitted that he participated in the enquiry proceedings and letter Ex. R-10 had been written by him to the enquiry officer. He denied that before starting of enquiry, the enquiry officer had told him about the procedure of the enquiry. He admitted his signatures on Ex. R-11 to Ex. R-22 in red circle. He further admitted that during enquiry the respondent management had produced two witnesses who were cross-examined by him and that the enquiry officer recorded his statement. He also admitted that he received 2nd show cause notice Ex. R-23 alongwith the enquiry proceedings Ex. RW-24. He

admitted that he replied 2nd show cause notice. He denied that he had refused to receive the termination letter. He further denied that he had encashed the cheque of full and final payment.

9. On the other hand, the respondent examined RW-1 Shri Manjit Singh, Plant Manager who tendered in evidence his affidavit Ex. RW-1/A wherein he reiterated almost all the averments as stated in the reply. He also tendered in evidence the copy of complaints Ex. R-25 and Ex. R-26, copy of letter dated 5.9.2007 Ex. R-27, reply of second show cause notice Ex. R-28, dismissal letter Ex. R-29, full & final settlement Ex. R-30, copy of letter dated 4.12.2007 Ex. R-31, copy of letter dated 5.12.2007 Ex. R-32, reply to demand notice Ex. R-33 and copy of letter dated 3.12.2007 Ex. R-34. In cross-examination, he stated that the petitioner was working with the respondent from the year, 2006. He expressed his ignorance about the fact as to whether the petitioner had indulged in any act of misconduct prior to this incidence. He denied that the respondent had leveled false allegations against the petitioner as he had raised a demand notice. He further denied that the company had initiated the proceedings just to oust the petitioner from service and that the services of the petitioner have been terminated illegally.

10. Shri Sanjeev Sharma, Enquiry Officer stepped into the witness box as RW-2 and tendered in evidence his affidavit Ex. RW-2/A wherein he stated that the respondent company appointed him as an enquiry officer in the chargesheet dated 31.8.2007 and after his appointment, he issued notice to the petitioner to join the enquiry proceedings which were to be conducted by him at the main gate of the factory and thereafter he started enquiry in the presence of both the parties and he apprized them the procedure of the enquiry. He further stated that he conducted the enquiry as per the principles of natural justice as he gave full opportunity to petitioner to cross-examine the witnesses of the management and the copies of the statements of the witnesses including proceedings were supplied to him on the same day when the same were written. The proceedings and statements are in his hand and the enquiry report was signed by him. In cross-examination, he denied that he had not permitted the petitioner to be represented by a defence assistant. He further denied that he had not given the opportunity to the petitioner to produce his defence witnesses. He also denied that he had prepared the enquiry report at the instance of the management.

11. After the closure security of the record of the case, it has become clear that the petitioner joined the employment of the company as machine operator *w.e.f.* 1.6.2006. It has also become clear that for the alleged misconduct, he was issued chargesheet dated 31.8.2007. From the evidence on record it has also become clear that since his explanation was not found satisfactory, an enquiry was ordered to be conducted against him and *vide* letter dated 5.9.2007 Ex. R7, Shri Sanjeev Sharma, Advocate was appointed as an enquiry officer to enquire into the charges leveled against him *vide* chargesheet dated 31.8.2007. The learned counsel for the petitioner contended that no opportunity of being heard was given to the petitioner before terminating his services in violation of the principles of natural justice. In **K.L Tripathi Vs. State Bank of India and ors. AIR 1984 SC 273** while dealing with the concept of natural justice in the back-drop of departmental proceedings, it has been held as under:

'It is true that all actions against a party which involve penal or adverse consequences must be in accordance with the principles of natural justice but whether any particular principle of natural justice would be applicable to a particular situation or the question whether there has been any infraction of the application of that principle, has to be judged, in the light of facts and circumstances of each particular case. The basic requirement is that there must be fair play in action and the decision must be arrived at in a just and objective manner with regard to the relevance of the materials and reasons. We must reiterate again that the rules of natural justice are flexible and cannot be put on any rigid formula. In order to sustain a complaint of violation of principles of natural justice

on the ground of absence of opportunity of cross-examination, it has to be established that prejudice has been caused to the appellant by the procedure followed.”

**In Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi and Others, (1991) 2 SCC 716**, the Hon’ble Apex Court laid down that strict rules of the Evidence Act, and the standard of proof envisaged therein do not apply to departmental proceedings or domestic tribunal. The relevant para of the aforesaid judgment is reproduced as under:

“37. It is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts though not proved strictly in conformity with the Evidence Act. The material must be germane and relevant to the facts in issue. In grave cases like forgery, fraud, conspiracy, misappropriation, etc. seldom direct evidence would be available. Only the circumstantial evidence would furnish the proof, but inference from the evidence and circumstances must be carefully distinguished from conjectures or speculation. There must be evidence direct or circumstantial to deduce necessary inferences in proof of the facts in issue. There can be no inferences unless there are objective facts, direct or circumstantial from which to infer the other fact which it is sought to establish..... The standard of proof is not proof beyond reasonable doubt but the preponderance of probabilities tending to draw an inference that the fact must be more probable.

12. The aforesaid decision was relied upon by the **Hon’ble Supreme Court in AIR 2005 S.C 570 titled as Cholan Roadways Ltd. Vs. G Thirugnanasambandam**, wherein it has been observed as under:

“17. There cannot, however, be any doubt whatsoever that the principle of natural justice are required to be complied with in a domestic enquiry. It is, however, well-known that the said principle cannot be stretched too far nor can be applied in a vacuum.”

“18.....”

19. It is further trite that the standard of proof required in a domestic enquiry *vis-a-vis* a criminal trial is absolutely different. Whereas in the former 'preponderance of probability' would suffice; in the latter, 'proof beyond all reasonable doubt' is imperative.”

13. From the aforesaid decisions of the Hon’ble Supreme Court, it has become quite clear that in a domestic enquiry, the principles of natural justice are to be observed on certain parameters and the enquiry is to be fairly and properly conducted. That apart, the proof in a domestic enquiry stands on a different platform that is required in a court of law. Now, in the light of the aforesaid decisions of the Hon’ble Supreme Court, it has to be seen in the present case as to whether there was any violation of principles of natural justice in the enquiry held against the petitioner. The petitioner as PW-1 has categorically deposed that he was not afforded reasonable opportunity of being heard in the enquiry proceedings. However, in cross-examination, he admitted that he had received the letter Ex. R-6 wherein he was informed that Shri Sanjeev Sharma, Advocate was appointed as an enquiry officer and with the aforesaid letter Ex. R-7 was also attached. He also admitted that *vide* letter Ex. R-8, the enquiry officer had asked him to participate in the enquiry. He further admitted that he had submitted a letter Ex. R-9 with a request that he wanted to engage Shri R.D. Ranawat, as his defence assistant but the enquiry officer told him that he could not engage an outsider as the defence assistant but he can only engage a co-worker as his defence assistant. He also admitted that Shri R.D. Ranawat was not

working in the factory. He admitted that he participated in the enquiry. He further admitted that he had cross-examined the management witnesses. He admitted that the enquiry officer had recorded his statement. He further admitted that he had received second show cause notice Ex. R-23 alongwith the enquiry report Ex. R-24. The enquiry officer Shri Sanjeev Sharma appeared in the witness box as RW-2 and tendered his affidavit Ex. RW-2/A wherein he categorically deposed that he had conducted the enquiry as per the principles of natural justice by affording full opportunity to petitioner to cross-examine the witnesses of the management and the copies of the statements of the witnesses and the proceedings were supplied to him on the same day when the same were written. He also stated that he conducted the enquiry in a fair and proper manner. The onus was upon the petitioner to prove that the domestic enquiry conducted against him was unfair and violative of principles of natural justice. However, the petitioner has failed to produce any material before this Court in order to substantiate his allegations. It is a settled law that obligation to lead evidence to establish an allegation made by a party is upon the party making the allegation. The test would be as to who would fail if no evidence is led. The party making the allegations and seeking the redressal must seek an opportunity to lead evidence. In the present case, the petitioner has pleaded that no opportunity of being heard was given to him before terminating his services. However, when regard is given to the cross-examination of petitioner as PW-1, it is quite clear that he was given reasonable and fair opportunity of being heard.

14. The perusal of the enquiry proceedings and enquiry report Ex. R-24 shows that chargesheet was served upon the petitioner for the misconduct during duty hours and his explanation was called for and since his explanation was found unsatisfactory, an enquiry was conducted against him in respect of the chargesheet. The enquiry procedure was explained to the petitioner and he participated in the enquiry and he was afforded full opportunity to defend himself. From the scrutiny of enquiry report as well as entire evidence on record, there can be no *iota* of doubt that the petitioner was afforded proper opportunity to defend himself and there is no violation of principles of natural justice. The charges leveled against the petitioner stood duly proved. In other words I have no hesitation in holding that the domestic enquiry conducted against the petitioner by the respondent management is fair and proper. Hence, this issue is decided in favour of the respondent and against the petitioner.

### ***Relief***

In view of my foregoing discussion on preliminary issue, since, the enquiry has been held to be fair and proper, therefore, let the parties be heard on the point as to whether the punishment of dismissal imposed by the respondent upon the petitioner is dis-proportionate to the gravity of misconduct committed by him. Now, list the case at camp Court Nalagarh for arguments on the aforesaid point on 25.8.2017.

Sd/-  
(SUSHIL KUKREJA)  
*Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla Camp at Nalagarh.*

21.7.2017

**Present:** Shri A.N. Sharma, Advocate for petitioner.  
Shri Rajiv Sharma, Advocate for respondent.

This order shall dispose of the preliminary issue framed on 2.8.2013 by this Court. Briefly the case of the petitioner is that since, 1st June, 2006, he was employed in the

respondent company as machine operator and he had worked with full devotion, honesty and to the best of his abilities but the respondent started creating labour problems and violation of labour laws in the company, hence, the petitioner alongwith some other workers have made a representation/ordinary demand letter before the management and that the respondent company had ignored the said demand letter and started torturing the petitioner and on 25.8.2007, a show cause notice was issued to him which was replied by him on 25.8.2007. It is further stated that again by issuing another show cause notice the respondent company tried to implicate the petitioner in a false case as a false allegation of quarrel and misbehave has been leveled against him and thereafter another notice on the same facts with an intention to terminate his services has been issued to him and *vide* chargesheet dated 31.8.2007, the petitioner was chargesheeted and Shri Sanjeev Sharma was appointed as an enquiry officer. It is also stated that the petitioner requested the enquiry officer for the defence assistant while holding the enquiry but the enquiry officer refused his request and the enquiry conducted by the enquiry officer was against the principles of natural justice as no reasonable opportunity of being heard was afforded to him (petitioner). Against this back-drop a prayer has been made that the termination order dated nill be set aside and the respondent be directed to reinstate the services of the petitioner with all monetary/consequential benefits.

2. By filing reply, the respondent contested the claim wherein preliminary objections have been taken that the petitioner has not come to this Court with clean hands and that the petitioner has filed the claim in routine. On merits, it has been asserted that the petitioner had committed grave misconduct in the factory and he was not hearing to any superior officer, hence, for breaking discipline, the respondent passed the order of dismissal. It is further asserted that the security on the gate at the time of routine checkup had recovered "Bhang ki Goli" from the petitioner who was carrying the same for the purpose of intoxication, hence, a proper chargesheet was issued to him and he was called upon to file the reply of the same and on the written complaint of the security, the respondent issued show cause notice to the petitioner and he was called upon to file the reply which was not found satisfactory and as such the respondent took a decision to chargesheet him in order to bring out the truth and he was chargesheeted as per the model standing orders depicted in Himachal Pradesh (Industrial Employment Standing Orders) Rules, 1973 and Amended Rules 1991. Since, the reply filed by the petitioner was not found satisfactory, hence, the respondent took a decision to hold a domestic enquiry to the chargesheet dated 31.8.2007 and Shri Sanjeev Sharma Advocate was appointed as an enquiry officer to enquire into the matter as per the principles of natural justice and as per the model standing orders depicted in H.P. (Industrial employment Standing Orders) Rules, 1973 and Amended Rules 1991 applicable to the petitioner. It is denied that the enquiry officer had denied the defense assistance to the petitioner. It is asserted that the enquiry officer conducted the fair and impartial enquiry as per law and the principles of natural justice and he gave notice of enquiry to the petitioner and he (petitioner) participated in the enquiry proceedings and on each and every date, the copies of the proceedings and statement of the witnesses were supplied to the petitioner and he was given full opportunities to cross-examine the witnesses of the respondent and he (petitioner) was given full opportunities to lead his evidence in defence and even the papers supplied by the petitioner were duly exhibited by the enquiry officer. The report of enquiry officer dated 6.1.2008 is based on the documents supplied by both the parties and after the enquiry, the services of the petitioner were dismissed *vide* orders dated 6.2.2008 and his full & final financial benefits were also released. The respondent prayed for the dismissal of the claim petition.

3. Rejoinder not filed.

4. On the pleadings of the parties, the following preliminary issues were framed by this Court on 2.8.2013:

1. Whether the domestic enquiry conducted against the petitioner is unfair and violative of the principles of natural justice as alleged?

OPP...

2. Relief.

6. Thereafter, the parties were allowed to lead evidence on preliminary issue and petitioner himself appeared into the witness box as PW-1 whereas the respondent examined two RWs in support of preliminary issue.

7. I have heard the learned counsel for the parties and have also gone through the entire record pertaining to the enquiry as well as the evidence led before this Court.

8. The petitioner while appearing into the witness box as PW-1 deposed that that he was engaged by the respondent company *w.e.f.* the year, 2006 and they have raised demand notice regarding issuance of identity card and ESI card upon which the respondent company issued letter to them wherein false allegations have been leveled against him which was replied by him on 28.8.2007 upon which the respondent company had illegally terminated his services *w.e.f.* 6.2.2008. He further deposed that neither he was afforded opportunity of being heard nor he was permitted to be represented through defence assistant by the enquiry officer and the enquiry officer had conducted the enquiry in an illegal manner. He also deposed that his services have been terminated on the basis of false allegations. In cross-examination, he admitted that on 27.8.2007, he received show cause notice Ex. R-1 which was replied by him *vide* Ex. R-2. He further admitted that on 31.8.2007, he had received chargesheet Ex. R-3 which was replied by him *vide* Ex. R-4 and that regarding the appointment of enquiry officer Shri Sanjeev Sharma, he was informed *vide* letter Ex. R-5 and *vide* letter Ex. R-6, the enquiry officer was appointed. He admitted that letter Ex. R-7 was issued to him by the enquiry officer and thereafter he participated in the enquiry. He further admitted that on 17.9.2007, he participated in the enquiry proceedings Ex. R-8. He also admitted his signatures on Ex. R-9 in red circle. He also admitted that the statements of witnesses were recorded in his presence and the copies of the same were supplied to him. He admitted his signatures on Ex. R-11 to Ex. R-23. He denied that he had cross-examined the witnesses of management. He further denied that he had received the second show cause notice alongwith the enquiry report.

9. On the other hand, the respondent examined RW-1 Shri Manjit Singh, Plant Manager who tendered in evidence his affidavit Ex. RW-1/A wherein he reiterated almost all the averments as stated in the reply. He also tendered in evidence the copy of dismissal letter Ex. R-31, second show cause notice Ex. R-32, copy of enquiry report dated 6.1.2008 Ex. R-33, copy of complaint Ex. R-34. In cross-examination, he stated that the petitioner was working with the respondent from the year, 2006. He expressed his ignorance about the fact as to whether the petitioner had indulged in any act of misconduct prior to this incidence. He denied that the respondent had leveled false allegations against the petitioner as he had raised a demand notice. He further denied that the company had initiated the proceedings just to oust the petitioner from service and that the services of the petitioner have been terminated illegally.

10. Shri Sanjeev Sharma, Enquiry Officer stepped into the witness box as RW-2 and tendered in evidence his affidavit Ex. RW-2/A wherein he stated that the respondent company appointed him as an enquiry officer in the chargesheet dated 31.8.2007 and after his appointment, he issued notice to the petitioner to join the enquiry proceedings which were to be conducted by him at the main gate of the factory and thereafter he started enquiry in the presence of both the parties and he apprised them the procedure of the enquiry. He further stated that he conducted the enquiry as per the principles of natural justice as he gave full

opportunity to petitioner to cross-examine the witnesses of the management and the copies of the statements of the witnesses including proceedings were supplied to him on the same day when the same were written. The proceedings and statements are in his hand and the enquiry report was signed by him. In cross-examination, he denied that he had not permitted the petitioner to be represented by a defence assistant. He further denied that he had not given the opportunity to the petitioner to produce his defence witnesses. He also denied that he had prepared the enquiry report at the instance of the management.

11. After the closure security of the record of the case, it has become clear that the petitioner joined the employment of the company as machine operator *w.e.f.* 1.6.2006. It has also become clear that for the alleged misconduct, he was issued chargesheet dated 31.8.2007. From the evidence on record it has also become clear that since his explanation was not found satisfactory, an enquiry was ordered to be conducted against him and *vide* letter dated 5.9.2007 Ex. R-5, Shri Sanjeev Sharma, Advocate was appointed as an enquiry officer to enquire into the charges leveled against him *vide* chargesheet dated 31.8.2007. The learned counsel for the petitioner contended that no opportunity of being heard was given to the petitioner before terminating his services in violation of the principles of natural justice. In **K.L Tripathi Vs. State Bank of India and ors. AIR 1984 SC 273** while dealing with the concept of natural justice in the back-drop of departmental proceedings, it has been held as under:

‘It is true that all actions against a party which involve penal or adverse consequences must be in accordance with the principles of natural justice but whether any particular principle of natural justice would be applicable to a particular situation or the question whether there has been any infraction of the application of that principle, has to be judged, in the light of facts and circumstances of each particular case. The basic requirement is that there must be fair play in action and the decision must be arrived at in a just and objective manner with regard to the relevance of the materials and reasons. We must reiterate again that the rules of natural justice are flexible and cannot be put on any rigid formula. In order to sustain a complaint of violation of principles of natural justice on the ground of absence of opportunity of cross-examination, it has to be established that prejudice has been caused to the appellant by the procedure followed.’

**In Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi and Others, (1991) 2 SCC 716**, the Hon’ble Apex Court laid down that strict rules of the Evidence Act, and the standard of proof envisaged therein do not apply to departmental proceedings or domestic tribunal. The relevant para of the aforesaid judgment is reproduced as under:

“37. It is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts though not proved strictly in conformity with the Evidence Act. The material must be germane and relevant to the facts in issue. In grave cases like forgery, fraud, conspiracy, misappropriation, etc. seldom direct evidence would be available. Only the circumstantial evidence would furnish the proof, but inference from the evidence and circumstances must be carefully distinguished from conjectures or speculation. There must be evidence direct or circumstantial to deduce necessary inferences in proof of the facts in issue. There can be no inferences unless there are objective facts, direct or circumstantial from which to infer the other fact which it is sought to establish..... The standard of proof is not proof beyond reasonable doubt but the preponderance of probabilities tending to draw an inference that the fact must be more probable.

12. The aforesaid decision was relied upon by the Hon'ble Supreme Court in AIR 2005 S.C 570 titled as Cholan Roadways Ltd. Vs. G Thirugnanasambandam, wherein it has been observed as under:

“17. There cannot, however, be any doubt whatsoever that the principle of natural justice are required to be complied with in a domestic enquiry. It is, however, well-known that the said principle cannot be stretched too far nor can be applied in a vacuum.”

“18.....”

19. It is further trite that the standard of proof required in a domestic enquiry *vis-a-vis* a criminal trial is absolutely different. Whereas in the former 'preponderance of probability' would suffice; in the latter, 'proof beyond all reasonable doubt' is imperative.”

13. From the aforesaid decisions of the Hon'ble Supreme Court, it has become quite clear that in a domestic enquiry, the principles of natural justice are to be observed on certain parameters and the enquiry is to be fairly and properly conducted. That apart, the proof in a domestic enquiry stands on a different platform that is required in a court of law. Now, in the light of the aforesaid decisions of the Hon'ble Supreme Court, it has to be seen in the present case as to whether there was any violation of principles of natural justice in the enquiry held against the petitioner. The petitioner as PW-1 has categorically deposed that he was not afforded reasonable opportunity of being heard in the enquiry proceedings. However, in cross-examination, he admitted that he had received the letter Ex. R-6 wherein he was informed that Shri Sanjeev Sharma, Advocate was appointed as an enquiry officer and with the aforesaid letter Ex. R-5 was also attached. He also admitted that *vide* letter Ex. R-7, the enquiry officer had asked him to participate in the enquiry. He admitted that he participated in the enquiry. He admitted that the enquiry officer had recorded the statement of witnesses and his statement. The enquiry officer Shri Sanjeev Sharma appeared in the witness box as RW-2 and tendered his affidavit Ex. RW-2/A wherein he categorically deposed that he had conducted the enquiry as per the principles of natural justice by affording full opportunity to petitioner to cross-examine the witnesses of the management and the copies of the statements of the witnesses and the proceedings were supplied to him on the same day when the same were written. He also stated that he conducted the enquiry in a fair and proper manner. The onus was upon the petitioner to prove that the domestic enquiry conducted against him was unfair and violative of principles of natural justice. However, the petitioner has failed to produce any material before this Court in order to substantiate his allegations. It is a settled law that obligation to lead evidence to establish an allegation made by a party is upon the party making the allegation. The test would be as to who would fail if no evidence is led. The party making the allegations and seeking the redressal must seek an opportunity to lead evidence. In the present case, the petitioner has pleaded that no opportunity of being heard was given to him before terminating his services. However, when regard is given to the cross-examination of petitioner as PW-1, it is quite clear that he was given reasonable and fair opportunity of being heard.

14. The perusal of the enquiry proceedings and enquiry report Ex. R-33 shows that chargesheet was served upon the petitioner for the misconduct during duty hours and his explanation was called for and since his explanation was found unsatisfactory, an enquiry was conducted against him in respect of the chargesheet. The enquiry procedure was explained to the petitioner and he participated in the enquiry and he was afforded full opportunity to defend himself. From the scrutiny of enquiry report as well as entire evidence on record, there can be no *iota* of doubt that the petitioner was afforded proper opportunity to defend himself and there is no violation of principles of natural justice. The charges leveled against the petitioner stood duly proved. In other words I have no hesitation in holding that the domestic enquiry conducted

against the petitioner by the respondent management is fair and proper. Hence, this issue is decided in favour of the respondent and against the petitioner.

***Relief***

In view of my foregoing discussion on preliminary issue, since, the enquiry has been held to be fair and proper, therefore, let the parties be heard on the point as to whether the punishment of dismissal imposed by the respondent upon the petitioner is dis-proportionate to the gravity of misconduct committed by him. Now, list the case at camp Court Nalagarh for arguments on the aforesaid point on 25.8.2017.

Sd/-  
 (SUSHIL KUKREJA),  
*Presiding Judge, Industrial Tribunal-cum-  
 Labour Court, Shimla,  
 Camp at Nalagarh.*

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**26.2.2018**

**Present:** None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

As per the Track Consignment report the notice issued to the petitioner has been duly served. It is 10.47 A.M. case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-  
 (SUSHIL KUKREJA),  
*Presiding Judge,  
 Labour Court, Shimla.*

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**Case called again**

**Present:** None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 12.50 P.M. Case called again but none appeared on behalf of the petitioner. Be called after lunch.

Sd/-  
 (SUSHIL KUKREJA),  
*Presiding Judge,  
 Labour Court, Shimla.*

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**Case called after lunch**

**Present:** None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 3.20 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor any counsel on his behalf has appeared before this Court. For today, the case has been listed for the service of the petitioner but as per track consignment report, despite having been served none appeared before this Court which clearly shows that the petitioner is not interested to pursue this case arising out of the reference. Therefore, this Court is left with no other alternative but to decide the reference on the basis of material whichever is available on file.

The following reference has been received from appropriate government for adjudication:

“Whether dismissal/termination of services of Shri Dharmender Kumar s/o Shri Param Dev, r/o Village Dashat, P.O. Sainj, Tehsil Gohar, Distt. Mandi, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthog- Karchham Hydro Electric Project, Reckog Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21.9.2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past benefits and compensation the above ex-worker is entitled to from the above employer/management?”

From the aforesaid reference is the clear that the petitioner has alleged his termination of services *w.e.f.* 21.9.2016 to be illegal but despite having been served, the petitioner has failed to appear before this Court. Since, the petitioner has failed to appear before this Court and to file statement of claim, therefore, in the absence of any material on record, it cannot be said that the termination of the services of the petitioner *w.e.f.* 21.9.2016 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified. Hence, the reference is answered in the negative. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced:  
26.2.2018

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge,*  
*Labour Court, Shimla.*

**19.02.2018**

Present: None for the petitioner.  
Shri Naresh Sharma, Advocate for respondent.

The notice issued for the service of the petitioner has been received back duly served as per the acknowledgement. It is 10.40 A.M. case called twice but none appeared on behalf of the petitioner. Be awaited.

*Presiding Judge,*  
*Labour Court, Shimla.*

#### **Case called again**

Present: None for the petitioner.  
Shri Naresh Sharma, Advocate for respondent.

It is 12.50 P.M. case called again but neither the petitioner nor any counsel on his behalf appeared before this Court. Be called after lunch.

*Presiding Judge,  
Labour Court, Shimla.*

**Case called after lunch**

Present: None for the petitioner.  
Shri Naresh Sharma, Advocate for respondent.

It is 3.35 P.M. case called repeatedly in pre and post lunch sessions but neither the petitioner nor any Advocate authorized by him appeared before this Court despite the fact that as per the Acknowledgement report the notice issued for the service of the petitioner had been duly received by him which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

**“Whether termination of services of Shri Kewal Krishan s/o Shri Lal Chand r/o Village and P.O. Khawangi, Tehsil Kalpa, District Kinnaur, H.P. by General Manager M/s Patel Engineering Ltd., Shongthong- Karchham Hydro Electric Project, Reckong-Peo, Tehsil Kalpa, District Kinnaur, H.P. w.e.f. 26.3.2016 allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”**

From the aforesaid reference, it is clear that *w.e.f. 26.3.2016*, the petitioner has alleged his termination to be illegal and unjustified but despite having been duly served, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that *w.e.f. 26.3.2016*, the services of the petitioner have been terminated illegally without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:  
19.2.2018.

Sd/-  
(SUSHILKUKREJA),  
*Presiding Judge, Labour Court, Shimla.*

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19.02.2018

Present: None for the petitioner.  
Shri Naresh Sharma, Advocate for respondent.

As per the Track Consignment report, the notice issued for the service of the petitioner has been duly served. It is 10.45 A.M. case called twice but none appeared on behalf of the petitioner. Be awaited.

*Presiding Judge,  
Labour Court, Shimla.*

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### **Case called again**

Present: None for the petitioner.  
Shri Naresh Sharma, Advocate for respondent.

It is 12.55 P.M. case called again but neither the petitioner nor any Advocate on his behalf appeared before this Court. Be called after lunch.

*Presiding Judge,  
Labour Court, Shimla.*

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### **Case called after lunch**

Present: None for the petitioner.  
Shri Naresh Sharma, Advocate for respondent.

It is 3.30 P.M. case called repeatedly in pre and post lunch sessions but neither the petitioner nor any Advocate authorized by him appeared before this Court despite the fact that as per Track Consignment report the notice issued for the service of the petitioner had been duly served but despite that he had failed to appear before this Court which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

**“Whether termination of services of Shri Anil Kumar s/o late Shri Nar Bahadur r/o Village and P.O. Khawangi, Tehsil Kalpa, District Kinnaur, H.P. by General Manager M/s Patel Engineering Ltd., Shongthong-Karchham Hydro Electric Project, Reckong-Peo, Tehsil Kalpa, District Kinnaur, H.P. w.e.f. 26.3.2016 allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”**

From the aforesaid reference, it is clear that w.e.f. 26.3.2016, the petitioner has alleged his termination to be illegal and unjustified but despite having been served, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of

reference. There is no material on record/file which could go to show that *w.e.f.* 26.3.2016, the services of the petitioner have been terminated illegally without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:  
19.2.2018.

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge, Labour Court, Shimla.*

**26.2.2018:** None for petitioner.

Present : Shri Naresh Sharma, Advocate for respondent.

As per the Track Consignment report the notice issued to the petitioner has been duly served. It is 10.45 A.M. case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge, Labour Court, Shimla.*

### **Case called again**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 12.40 P.M. case called again but none appeared on behalf of the petitioner. Be called after lunch.

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge,  
Labour Court, Shimla.*

### **Case called after lunch**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 3.15 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor any counsel on his behalf has appeared before this Court. For today, the case has been listed for the service of the petitioner but as per track consignment report, despite having been served none appeared before this Court which clearly shows that the petitioner is not interested to pursue this case arising out of the reference. Therefore, this Court is left with no other alternative but to decide the reference on the basis of material whichever is available on file.

The following reference has been received from appropriate government for adjudication:

“Whether dismissal/termination of services of Shri Sunder Singh s/o Shri Hardayal Singh r/o Village Shah, P.O. Dofda, Tehsil Rampur Busherh, Distt. Shimla, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong-Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21.9.2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

From the aforesaid reference is the clear that the petitioner has alleged his termination of services *w.e.f.* 21.9.2016 to be illegal but despite having been served, the petitioner has failed to appear before this Court. Since, the petitioner has failed to appear before this Court and to file statement of claim, therefore, in the absence of any material on record, it cannot be said that the termination of the services of any material on record, it cannot be said that the termination of the services of the petitioner *w.e.f.* 21.9.2016 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified. Hence, the reference is answered in the negative. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Sd/-

(SUSHIL KUKREJA),  
*Presiding Judge,*  
*Labour Court Shimla.*

Announced:  
26.2.2018.

26.2.2018.

Present: None for petitioner.  
Shri Naresh Sharma, Advocate for respondent.

As per the Track Consignment report the notice issued to the petitioner has been duly served. It is 10.55 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-

(SUSHIL KUKREJA),  
*Presiding Judge,*  
*Labour Court, Shimla.*

#### **Case called again**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 12.58 P.M. case called again but none appeared on behalf of the petitioner. Be called after lunch.

Sd/-

(SUSHIL KUKREJA),  
*Presiding Judge, Labour Court, Shimla.*

**Case called after lunch**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 3.30 P.M. case called repeatedly in pre and post lunch sessions but neither the petitioner nor any counsel on his behalf has appeared before this Court. For today, the case has been listed for the service of the petitioner but as per track consignment report, despite having been served none appeared before this Court which clearly shows that the petitioner is not interested to pursue this case arising out of the reference. Therefore, this Court is left with no other alternative but to decide the reference on the basis of material whichever is available on file.

The following reference has been received from appropriate government for adjudication:

**“Whether termination of services of Shri Diwan Singh s/o Shri Labh Singh, r/o Village Dodhwan, P.O. Bhojpur, Tehsil Sunder Nagar, Distt. Mandi, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. w.e.f. 21.9.2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”**

From the aforesaid reference is the clear that the petitioner has alleged his termination of services *w.e.f.* 21.9.2016 to be illegal but despite having been served, the petitioner has failed to appear before this Court. Since, the petitioner has failed to appear before this Court and to file statement of claim, therefore, in the absence of any material on record, it cannot be said that the termination of the services of the petitioner *w.e.f.* 21.9.2016 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified. Hence, the reference is answered in the negative. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced:  
26.2.2018

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge,  
Labour Court, Shimla.*

**26.2.2018.**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

As per the Track Consignment report the notice issued to the petitioner has been duly served. It is 10.50 A.M. case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge, Labour Court, Shimla.*

**Case called again**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 12.55 P.M. case called again but none appeared on behalf of the petitioner. Be called after lunch.

Sd/-

(SUSHIL KUKREJA),  
*Presiding Judge,  
Labour Court, Shimla.*

**Case called after lunch**

Present: None for petitioner.

Shri Naresh Sharma, Advocate for respondent.

It is 3.25 P.M. case called repeatedly in pre and post lunch sessions but neither the petitioner nor any counsel on his behalf has appeared before this Court. For today, the case has been listed for the service of the petitioner but as per track consignment report, despite having been served none appeared before this Court which clearly shows that the petitioner is not interested to pursue this case arising out of the reference. Therefore, this Court is left with no other alternative but to decide the reference on the basis of material whichever is available on file.

The following reference has been received from appropriate government for adjudication:

**“Whether termination of services of Shri Bhageshwari Prasad Singh s/o Shri Onkar Nath Singh, r/o H.No. 116, Village & P.O. Khewali, Tehsil Shivpur, Distt. Baranasi, U.P. by the General Manager, M/s Patel Engineering Ltd. Songthong-Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. w.e.f. 21.9.2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”**

From the aforesaid reference is the clear that the petitioner has alleged his termination of services *w.e.f.* 21.9.2016 to be illegal but despite having been served, the petitioner has failed to appear before this Court. Since, the petitioner has failed to appear before this Court and to file statement of claim, therefore, in the absence of any material on record, it cannot be said that the termination of the services of the petitioner *w.e.f.* 21.9.2016 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified. Hence, the reference is answered in the negative. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Sd/-

Announced:  
26.2.2018

(SUSHIL KUKREJA),  
*Presiding Judge,  
Labour Court, Shimla.*

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**21.02.2018**

Present: Sh. A.K. Sharma, AR for petitioner.

Sh. Yogesh Kumar, AR for the respondent.

At this stage it has been stated by the AR for the petitioner that the petitioner had settled the matter with the respondent out of court and the respondent had handed over to him two cheques today in the name of petitioner *i.e.* cheque bearing No-828137, dated 21.02.2018 drawn on United Bank of India Chandigarh in the sum of Rs.10,000/- (Ten Thousand) and cheque No. 161472, dated 09.12.2017 drawn on United Bank of India Chandigarh in the sum of Rs.25,773/- (Twenty Five Thousand Seven Hundred and Seventy Three) only as full and final amount of legal dues payable to the petitioner. He further stated that the petitioner has now no dispute with the respondent arising out of the present reference.

Similarly it has been stated by the AR for the respondent that the respondent had settled the matter with the petitioner out of court and paid him an amount of Rs. 35,773/- (Thirty Five Thousand Seven Hundred and Seventy Three) only by way of Cheque No. 828137, dated 21.02.2018 drawn on United Bank of India Chandigarh in the sum of Rs. 10,000/- (Eighteen Thousand Seven Hundred and Thirty five ) and cheque No. 161472, dated 09.12.2017 drawn on United Bank of India Chandigarh in the sum of Rs. 25,773/- (Twenty Five Thousand Seven Hundred and Seventy Three), which have been handed over to the AR for the petitioner today and now the petitioner has no dispute with the respondent arising out of the present reference.

Therefore, in view of the aforesaid statements, I am satisfied that a lawful compromise has been effected between the parties and the dispute between them stands settled in terms of the statements of the parties, which shall form a part of this award/order. The reference is answered accordingly. Let, a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to record.

Announced:  
21.02.2018

Sd/-  
(SUSHIL KUKREJA),  
*Presiding Judge,*  
*Labour Court, Shimla.*

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**21.02.2018**

Present: Sh. A.K. Sharma, AR for petitioner.

Sh. Yogesh Kumar, AR for the respondent.

At this stage it has been stated by the AR for the petitioner that the petitioner had settled the matter with the respondent out of court and the respondent had handed over to him two cheques today in the name of petitioner *i.e.* cheque bearing No-828136, dated 21.02.2018 drawn on United Bank of India Chandigarh in the sum of Rs. 10,000/- (Ten Thousand) and cheque No- 161474, dated 09.12.2017 drawn on United Bank of India Chandigarh in the sum of Rs.17,199/- (Seventeen Thousand One Hundred and Ninety Nine) only as full and final

amount of legal dues payable to the petitioner. He further stated that the petitioner has now no dispute with the respondent arising out of the present reference.

Similarly it has been stated by the AR for the respondent that the respondent had settled the matter with the petitioner out of court and paid him an amount of Rs. 27,199/- (Twenty Seven Thousand One Hundred and Ninety Nine) only by way of Cheque No-828136, dated 21.02.2018 drawn on United Bank of India Chandigarh in the sum of Rs. 10,000/- (Ten Thousand) and cheque No- 161474, dated 09.12.2017 drawn on United Bank of India Chandigarh in the sum of Rs.17,199/- (Seventeen Thousand One Hundred and Ninety Nine), which have been handed over to the AR for the petitioner today and now the petitioner has no dispute with the respondent arising out of the present reference.

Therefore, in view of the aforesaid statements, I am satisfied that a lawful compromise has been effected between the parties and the dispute between them stands settled in terms of the statements of the parties, which shall form a part of this award/order. The reference is answered accordingly. Let, a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to record.

Announced:

21.02.2018

Sd/-

(SUSHIL KUKREJA),  
*Presiding Judge,*  
*Labour Court, Shimla.*

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**IN THE COURT OF SH. SUSHIL KUKREJA, PRESIDING JUDGE, INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA (H.P.)**

Application No. 22 of 2017

Instituted on 3.3.2017

Decided on 27.2.2018

Devender Kumar s/o Shri Om Prakash r/o Village Nanowal, P.O. Khera, Tehsil Nalagarh District Solan, H.P.

*...Petitioner.*

*Vs.*

M/s Krishna Thermopack, VPO Belideor, Tehsil Nalagarh, District Solan, HP.

*...Respondent.*

**Petition under section 2-A of the Industrial Disputes Act**

For petitioner : Shri A.K. Sharma, AR.

For respondent : Ex-parte.

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**AWARD/ORDER**

Briefly, the case of the petitioner is that *w.e.f.* 5.1.2010, he was employed with respondent as driver and he was drawing last wages of Rs. 10500/- per month. It is further asserted that the petitioner had completed more than 240 days before his illegal termination of service and his services had been terminated *w.e.f.* 1.10.2016 in an unlawful manner without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) as neither any notice has been given to him nor he was paid compensation and he was victimized on account of his bonafide trade union activities. It is further stated that on 2.10.2016, the petitioner served a demand notice upon the respondent but due to adamant attitude of the respondent no settlement was arrived at during conciliation proceedings. It is also averred that the petitioner is unemployed after the termination of his services. Against this back-drop a prayer has been made that he be reinstated in service alongwith back-wages and other consequential service benefits.

2. Before, I proceed further, it is important to mention here that *vide* order dated 28.12.2017, the respondent was proceeded against ex-parte and thereafter the *ex parte* evidence of petitioner was recorded.

3. The petitioner appeared into the witness box as PW-1 to depose that he was engaged as driver by the respondent on 5.1.2010 and he was driving vehicle bearing no. HR 46B-2568. He further stated that his last drawn salary was Rs. 10,500/. He also stated that he worked continuously till 1.10.2016 on which date his services were terminated on account of bonafide trade union activities as he was the elected president of the workers union. He also tendered in evidence the experience certificate mark P-1 which was issued to him by the respondent. He further stated that he had completed 240 days in each calendar year.

4. I have heard the AR for the petitioner and also scrutinized the entire evidence on record carefully. From the closer scrutiny of the record of the case, it has become clear that the petitioner was engaged as a driver by the respondent *w.e.f.* 5.1.2010 and he worked as such till 1.10.2016 and had completed six years of service with the respondent. This fact is also clear from the experience certificate mark P-1 dated 18.1.2016 whereby the respondent has certified that the petitioner was working in their organization for the last six years meaning thereby that the petitioner had completed 240 working days with the respondent in preceding twelve calendar months from the date of his termination. It is also clear from the record that neither any notice as prescribed under section 25-F of the Act was served upon the petitioner nor he was paid compensation in lieu thereof. Therefore, before terminating the services of the petitioner, it was incumbent upon the respondent to have complied with the provisions of section 25-F of the Act which lay down certain conditions precedent to the retrenchment of a workman (workmen) and requires the employer to comply with those conditions as per clauses (a) to (c) which are mandatory in nature. However, in the present case, the perusal of the record shows that the respondent has failed to comply with the provisions of section 25-F of the Act. **In (2015) 4 SCC 544, Mackinnon Mackenzie and Company Ltd., Vs. Mackinnon employees Union**, the Hon'ble Apex Court has held as under:

“34. .... The Industrial Court after examining the facts and evidence on record has rightly answered the question of breach of Section 25F clause (b) in the negative since no evidence has been produced by the respondent-Union to prove the same and further no calculation is brought to our notice as to the amount received by way of retrenchment compensation and also the actual amount sought to have been paid to the retrenched workmen. Further, with regard to the provision of Section 25F clause (c), the appellant- Company has not been able to produce cogent evidence that notice in the prescribed manner has been served by it to the State Government prior to the retrenchment of the concerned workmen. Therefore, we have to hold that the appellant- Company has not complied with

the conditions precedent to retrenchment as per Section 25F clauses (a) and (c) of the I.D. Act which are mandatory in law.”

5. In the present case also as observed aforesaid, the respondent has failed to comply with the provisions of section 25-F of the Act before terminating the services of the petitioner. Hence, In view of the law laid down by the Hon’ble Supreme Court (*supra*) and my foregoing observations, I have no hesitation in holding that the termination of the services of the petitioner *w.e.f* 1.10.2016 by the respondent without complying with the provisions of section 25-F of the Act, is illegal and unjustified, hence, the petitioner is held entitled to reinstatement in service with seniority and continuity.

6. Now, the question which arises for consideration, before this Court is as to whether the petitioner is entitled to full back wages as contended by the AR for the petitioner. In **(2009) 1 SCC 20, Kanpur Electricity Supply Company Limited Vs. Shamim Mirza**, the Hon’ble Supreme Court has held that once the order of termination of services of an employee is set-aside, ordinarily, the relief of reinstatement is available to him. However, the entitlement of an employee to get reinstated does not necessarily result in payment of full or partial back-wages, which is independent of reinstatement. It has further been held by the **Hon’ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla** that full back wages cannot be granted mechanically, upon an order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry.

7. Moreover, the petitioner was under an obligation to prove by leading cogent evidence that he was not gainfully employed after the termination of his services. The initial burden is on the workman/employee to show that he was not gainfully employed as held by the **Hon’ble Apex Court in (2005) 2 Supreme Court Cases 363 titled as Kendriya Vidyalaya Sangathan and another Vs. S.C Sharma** that:

“16.....When, the question of determining the entitlement of a person to back-wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim.....”

In the present case, the petitioner has failed to discharge his burden by placing any material on record that he was not gainfully employed after his termination. Therefore, in view of the entire evidence, on record, coupled with the rulings (*supra*), I have no hesitation in holding that the petitioner is not entitled to any back-wages.

#### FINAL ORDER.

As a sequel to my above discussion, the claim of the petitioner succeeds and is hereby allowed with the result, the respondent is directed to reinstate the petitioner in service forthwith with seniority and continuity. However, the petitioner is not entitled to any back-wages. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 27th day of Feb., 2018.

Sd/-  
(SUSHIL KUKREJA)  
Presiding Judge, Industrial Tribunal-cum-  
Labour Court, Shimla.

## आबकारी एवं कराधान विभाग

शुद्धिपत्र

शिमला—2, 15 मई, 2018

सं0 ई0एक्स0एन0—बी(1)–1/2017.—राजपत्र, हिमाचल प्रदेश में तारीख 8 मई, 2018 को पृष्ठ 1104—1105 पर प्रकाशित इस विभाग की अधिसूचना सं0 ई0एक्स0एन0—बी(1)–1/2017 तारीख 01 मई, 2018, के राजभाषा पाठ में “सारणी” में स्तम्भ सं0 (2) के नीचे प्रथम पंक्ति में आए शब्दों “राज्य कर एवं आबकारी आयुक्त” के स्थान पर “राज्य कर एवं आबकारी का आयुक्त” शब्द पढ़े जाएं।

आदेश द्वारा,  
जगदीश चन्द्र शर्मा,  
प्रधान सचिव(आबकारी एवं कराधान)।

## आबकारी एवं कराधान विभाग

शुद्धिपत्र

शिमला—2, 15 मई, 2018

सं0 ई0एक्स0एन0—बी(1)–1/2017.—राजपत्र, हिमाचल प्रदेश में तारीख 8 मई, 2018 को पृष्ठ 1106—1107 में प्रकाशित इस विभाग की अधिसूचना सं0 ई0एक्स0एन0—बी(1)–1/2017 तारीख 01 मई, 2018, के राजभाषा पाठ के प्रथम पैरा की दूसरी पंक्ति में आए शब्दों और अंक “की धारा 3” के पश्चात् और शब्दों “तथा इस निमित्त” से पूर्व “द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए” शब्द पढ़े जाएं।

2. उपरोक्त अधिसूचना में उक्त “सारणी” में स्तम्भ सं0 (2) के नीचे प्रथम पंक्ति में आए शब्दों “राज्य कर एवं आबकारी आयुक्त” के स्थान पर “राज्य कर एवं आबकारी का आयुक्त” शब्द पढ़े जाएं।

आदेश द्वारा,  
जगदीश चन्द्र शर्मा,  
प्रधान सचिव(आबकारी एवं कराधान)।

## आबकारी एवं कराधान विभाग

शुद्धिपत्र

शिमला—2, 15 मई, 2018

सं0 ई0एक्स0एन0—बी(1)–1/2017.—राजपत्र, हिमाचल प्रदेश में तारीख 8 मई, 2018 को पृष्ठ 1108—1109 में प्रकाशित इस विभाग की अधिसूचना सं0 ई0एक्स0एन0—बी(1)–1/2017 तारीख 01 मई, 2018, के राजभाषा पाठ के प्रथम पैरा की दूसरी पंक्ति में आए शब्दों और अंक “की धारा 7” के पश्चात् और “तथा इस निमित्त” शब्दों से पूर्व “द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए” शब्द पढ़े जाएं।

आदेश द्वारा,  
जगदीश चन्द्र शर्मा,  
प्रधान सचिव(आबकारी एवं कराधान)।

## आबकारी एवं कराधान विभाग

शुद्धिपत्र

शिमला—2, 15 मई, 2018

सं0 ई0एक्स0एन0—बी(1)–1/2017.—राजपत्र, हिमाचल प्रदेश में तारीख 8 मई, 2018 को पृष्ठ 1110—1111 में प्रकाशित इस विभाग की अधिसूचना सं0 ई0एक्स0एन0—बी(1)–1/2017 तारीख 01 मई, 2018, के राजभाषा पाठ के प्रथम पैरा की दूसरी पंक्ति में आए शब्दों और अंक “की धारा 7” के पश्चात् और “तथा इस निमित्त” शब्दों से पूर्व “द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए” शब्द पढ़े जाएं।

आदेश द्वारा,  
जगदीश चन्द्र शर्मा,  
प्रधान सचिव (आबकारी एवं कराधान)।

## आबकारी एवं कराधान विभाग

शुद्धिपत्र

शिमला—2, 15 मई, 2018

सं0 ई0एक्स0एन0—बी(1)–1/2017.—राजपत्र, हिमाचल प्रदेश में तारीख 8 मई, 2018 को पृष्ठ 1112—1113 में प्रकाशित इस विभाग की अधिसूचना सं0 ई0एक्स0एन0—बी(1)–1/2017 तारीख 01 मई, 2018, के राजभाषा पाठ के प्रथम पैरा की दूसरी पंक्ति में आए शब्दों और अंक “की धारा 6” के पश्चात् और शब्दों “तथा इस निमित्त” से पूर्व “द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए” शब्द पढ़े जाएं।

आदेश द्वारा,  
जगदीश चन्द्र शर्मा,  
प्रधान सचिव (आबकारी एवं कराधान)।

**In the Court of Shri Vishal Sharma, H.P.A.S., Marriage Officer-cum-Sub Divisional Magistrate, Hamirpur, Himachal Pradesh**

In the matter of :

1. Naveen Kumar aged 27 years s/o Shri Partap Chand, r/o Village Baleta, P.O. Sanahi, Tehsil & District Hamirpur (H.P.).
2. Nitish Kumari aged 20 years d/o Late Shri Surinder Kumar, r/o Village Bohan, Tehsil Jawalamukhi Chakban, Kaluidhar, Jawalamukhi, Kangra, Dehra, Gopipur, H.P. . . *Applicants.*

*Versus*

General Public

. . *Respondents.*

Subject.— Notice for registration of Marriage.

Naveen Kumar and Nitish Kumari have filed an application u/s 05 of Special Marriage Act, 1954 alongwith affidavit in the court of undersigned in which they stated that marriage be solemnized between us within three calendar months.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before 07-06-2018. The objection received after 07-06-2018 will not be entertained and marriage will be registered accordingly.

Issued today on 07-05-2018 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur (H.P.).*

**In the Court of Shri Vishal Sharma, H.P.A.S., Marriage Officer-cum-Sub Divisional Magistrate, Hamirpur, Himachal Pradesh**

In the matter of :

1. Sunil Kumar aged 34 years s/o Shri Dharam Chand, r/o Village Kaloh, P.O. Bhater, Tehsil Bamson at Touni Devi, District Hamirpur (H.P.).
2. Pooja Kumari aged 18 years d/o Shri Chiranjiv c/o Meeran Devi, Ward No. 2 Anu Kalan, Tehsil & District Hamirpur (H.P.)  
.. *Applicants.*

*Versus*

General Public

.. *Respondent.*

Subject.— Notice for registration of Marriage.

Sunil Kumar and Pooja Kumari have filed an application u/s 05 of Special Marriage Act, 1954 alongwith affidavit in the court of undersigned in which they stated that marriage be solemnized between us within three calendar months.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before 07-06-2018. The objection received after 07-06-2018 will not be entertained and marriage will be registered accordingly.

Issued today on 07-05-2018 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur (H.P.).*

**In the Court of Shri Vishal Sharma, H.P.A.S., Marriage Officer-cum-Sub Divisional Magistrate, Hamirpur, Himachal Pradesh**

In the matter of :

1. Parshotam Chand aged 44 years s/o Shri Sukh Dev, r/o Village Gudhwin, P.O. Bohni, Tehsil & District Hamirpur (H.P.).
2. Malka Devi aged 38 years d/o Shri Gulwant Singh, Village Matyal, P.O. Sehorepain, Tehsil Jawalamukhi, District Kangra, Tehsil & District Hamirpur (H.P.) . . . *Applicants.*

*Versus*

General Public . . . *Respondent.*

Subject.— Notice for registration of Marriage.

Parshotam Chand and Malka Devi have filed an application u/s 16 of Special Marriage Act, 1954 alongwith affidavit in the court of undersigned in which they stated that they have solemnized their marriage on dated 07-05-2018.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before 07-06-2018. The objection received after 07-06-2018 will not be entertained and marriage will be registered accordingly.

Issued today on 07-05-2018 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur (H.P.).*

ब अदालत विवाह पंजीकरण अधिकारी, बड़सर, उप—मण्डल बड़सर, जिला हमीरपुर, हिंदू प्र०

1. Vikram Singh s/o Sh. Hukam Singh, r/o Vill. Matkar, P.O. Bahina, Teh. Barsar, Distt. Hamirpur, H.P.
2. Kaushly Devi d/o Attar Singh, r/o Vill. Jattar, P.O. Kadang, Tehsil Tiuni, Distt. Dehradun (U.P.) . . . प्रार्थी ।

बनाम

आम जनता

प्रतिवादी ।

आम जनता को सूचित किया जाता है कि प्रार्थी एक व दो ने इस न्यायालय में विवाह पंजीकरण करवाने का आवेदन किया है। अतः इस इश्तहार द्वारा आम जनता व उपरोक्त आवेदनकर्ता के माता—पिता को

इस विवाह के पंजीकरण बारे एतराज हो तो वह दिनांक 13-06-2018 या इससे पूर्व प्रातः 10.00 बजे इस न्यायालय में आपत्ति दर्ज करवा सकते हैं। इस तिथि के बाद कोई उजर स्वीकार नहीं किया जावेगा।

आज दिनांक 07-05-2018 को मेरे हस्ताक्षर एवं मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—  
विवाह पंजीकरण अधिकारी,  
बड़सर, उप-मण्डल बड़सर, जिला हमीरपुर, हिंदू प्र०।

**In the Court of Shri Varinder Sharma, H.M.S., Marriage Officer-cum-Sub Divisional Magistrate, Sujanpur, District Hamirpur, H. P.-176 110**

1. Sh. Anish Gupta aged 39 years s/o Shri Surender Gupta, r/o GH-5/7, Flat No. 373 Meera Bagh, Pachim Vihar (New Delhi)-110087.
2. Priya Gupta aged 33 years d/o Shri Parveen Gupta, r/o Ward No. 2, Main Bazar Sujanpur Tira, Tehsil Sujanpur, District Hamirpur (H.P.)-176110.

*Versus*

General Public

*Application for the registration of marriage under section 16 of Special Marriage Act, 1954 (Central Act) as amended by Marriage Laws (Amendment Act 01, 49 of 2001).*

Sh. Anish Gupta aged 39 years s/o Shri Surender Gupta, r/o GH-5/7, Flat No. 373 Meera Bagh, Pachim Vihar (New Delhi)-110087 and Priya Gupta aged 33 years d/o Shri Parveen Gupta, r/o Ward No. 2, Main Bazar Sujanpur Tira, Tehsil Sujanpur, District Hamirpur (H.P.)-176110 have filed an application alongwith affidavits in this court under Section 16 of Special Marriage Act, 1954 (Central Act) as amended by the Marriage Laws (Amendment Act 01, 49 of 2001) that they have solemnized their marriage ceremony on 13-11-2009 in children Park at Sujanpur, District Hamirpur, H. P. as per Hindu Rites and Customs and they are living together as husband and wife since then. Hence their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objections regarding this marriage can file the objections personally or in writing before this court on or before 04-06-2018. After that no objections will be entertained and marriage will be registered accordingly.

Issued today on 02-05-2018 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub Divisional Magistrate,  
Sujanpur, District Hamirpur (H.P.).*

**In the Court of Shri Arindam Chaudhary, IAS, Marriage Officer-cum-Sub Divisional Magistrate Hamirpur, Himachal Pradesh**

In the matter of :

1. Sh. Vijay Kumar aged 45 years s/o Shri Sarwan Ram, r/o Village Chhon, P.O. Jhanikar, Tehsil Tauni Devi, District Hamirpur (H.P.).

Smt. Rimpi Devi aged 29 years d/o Shri Tilak Raj, r/o Village Kughan, P.O. Aghar, Tehsil & District Hamirpur H.P.). *Applicants.*

*Versus*

General Public *..Respondents.*

Subject.— Notice for registration of Marriage.

Sh. Vijay Kumar & Rimpi Devi filed an application u/s 16 of Special Marriage Act, 1954 alongwith affidavit in the court of undersigned in which they stated that marriage have been solemnized between us on 14-07-2013.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before 30-05-2018. The objection received after will not be entertained and marriage will be registered accordingly.

Issued today on 28-04-2018 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur (H.P.).*

ब अदालत श्री दौलत राम ठाकुर, सहायक समाहर्ता, द्वितीय श्रेणी एवं नायब तहसीलदार, कुल्लू  
जिला कुल्लू हिं0 प्र0

केस नम्बर : 7/CNR/T/2018

दिनांक : 28 / 04 / 2018

श्री जितेन्द्र कुमार पुत्र श्री श्याम लाल पुत्र कर्म चन्द, निवासी गांव घराकड़, डाकघर पूर्वद, तहसील व जिला कुल्लू हिं0 प्र0 प्रार्थी।

बनाम

आम जनता

प्रतिवादीगण।

विषय.—प्रार्थना—पत्र बराए राजस्व अभिलेख में नाम दरूस्ती बारे।

उपरोक्त विषय पर डोला राम पुत्र श्री श्याम लाल पुत्र कर्म चन्द, निवासी गांव घराकड़, डाकघर पूर्वद, तहसील व जिला कुल्लू हिं0 प्र0 ने दिनांक 09-01-2018 को अधोहस्ताक्षरी के कार्यालय में नाम

दरुस्ती हेतु प्रार्थना—पत्र दायर किया है। प्रार्थना—पत्र में प्रार्थी श्री डोला राम पुत्र श्री श्याम लाल पुत्र कर्म चन्द दर्ज है का दरुस्त नाम श्री जितेन्द्र कुमार पुत्र श्री श्याम लाल पुत्र कर्म चन्द है को सही दर्ज करने बारे प्रार्थना की है।

अतः सर्व साधारण को इस इश्तहार द्वारा सूचित किया जाता है कि श्री डोला राम उर्फ जितेन्द्र कुमार पुत्र श्री श्याम लाल पुत्र कर्म चन्द का नाम दरुस्त करने बारे उजर/एतराज हो तो वह अधोहस्ताक्षरी के कार्यालय में इस इश्तहार के जारी होने के एक माह के भीतर लिखित रूप में उजर/एतराज दायर करेगा। यदि उक्त समय अवधि तक कोई भी उजर/एतराज दायर नहीं हुआ तो राजस्व रिकार्ड में डोला राम उर्फ जितेन्द्र कुमार पुत्र श्री श्याम लाल पुत्र कर्म चन्द सही नाम दर्ज करने बारे आदेश जारी किया जाएगा।

आज दिनांक 28—04—2018 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता द्वितीय श्रेणी,  
एवं तहसीलदार कुल्लू, जिला कुल्लू, हिंगो प्र०।

ब अदालत श्री प्रेम सिंह, उप—पंजीकाध्यक्ष (नायब तहसीलदार) सुन्दरनगर, जिला मण्डी, हिंगो प्र०

मिसल नं० : 3 / 2018

तारीख मरजुआ 19—04—2018

मुकद्दमा शीर्षक :—

1. श्री रोहित ठाकुर,
2. श्री मोहित ठाकुर पुत्रगण श्री शेर सिंह पुत्र श्री पोहलो राम, निवासीगण चतरोखडी, नजदीक एस०डी०एम० कार्यालय सुन्दरनगर, जिला मण्डी, हिंगो प्र० प्रार्थीगण।

#### बनाम

1. प्रसीनू देवी पुत्री दुर्गा देवी हाल पत्नी दया राम, निवासी सुदाहन, डा० सलापड़, तहसील सुन्दरनगर, जिला मण्डी, हिंगो प्र०।
2. लीला देवी पुत्री दुर्गा देवी हाल पत्नी लेख राम, निवासी व डा० सलापड़, तहसील सुन्दरनगर, जिला मण्डी, हिंगो प्र०।
3. गीता देवी पुत्री दुर्गा देवी हाल पत्नी हरनाम सिंह, निवासी नजदीक पैट्रोल पम्प, चतरोखडी, तहसील सुन्दरनगर, जिला मण्डी, हिंगो प्र०।
4. शिवानी ठाकुर पुत्री शेर सिंह पुत्र दुर्गा देवी, हाल पत्नी सन्दीप शर्मा, निवासी मकान नं० 3, वार्ड नं० 5, चतरोखडी, तहसील सुन्दरनगर, जिला मण्डी, हिंगो प्र०।
5. श्रीमती नीलम ठाकुर पत्नी स्व० शेर सिंह पुत्र दुर्गा देवी, निवासी मकान नं० 3, वार्ड नं० 5 चतरोखडी, तहसील सुन्दरनगर, जिला मण्डी, हिंगो प्र०।
6. आम जनता प्रत्यार्थीगण।

प्रार्थना—पत्र बराये पंजीकृत करने वसीयतनामा जेर धारा 40—41 भारतीय पंजीयन अधिनियम, 1908 के अन्तर्गत।

उपरोक्त विषय के सम्बन्ध में प्रार्थीगण श्री रोहित ठाकुर आदि पुत्रगण श्री शेर सिंह निवासीगण चतरोखडी, नजदीक एस०डी०एम० कार्यालय सुन्दरनगर, जिला मण्डी, हिं०प्र० ने इस अधोहस्ताक्षरी के न्यायालय में आवेदन—पत्र दायर किया है कि उनकी दादी श्रीमती दुर्गा देवी पत्नी स्व० श्री पोहलो, निवासी व डॉ खुराहल, तहसील सुन्दरनगर, जिला मण्डी, हिं०प्र० ने दिनांक 12—04—2005 को उनके नाम पर एक वसीयतनामा तहरीर करवाया है, लेकिन उक्त वसीयतनामा को किसी कारणवश पंजीकृत नहीं करवा सके। अब वसीयतनामा को पंजीकृत किया जावे।

अतः इस इश्तहार राजपत्र एवं प्रचलित अखबार के द्वारा फरीकदोयम आम जनता व अन्य सगे सम्बन्धियों को सूचित किया जाता है कि उपरोक्त बिला पंजीकृत वसीयत को पंजीकृत करने बारा कोई उजर/एतराज हो तो वह दिनांक 23—05—2018 को असालतन या वकालतन हाजर अदालत होकर अपना उजर/एतराज पेश कर सकते हैं हाजर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर बिला पंजीकृत वसीयत को पंजीकृत करने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 01—05—2018 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
उप—पंजीकाध्यक्ष (नायब तहसीलदार),  
सुन्दरनगर, जिला मण्डी, हिं० प्र०।

#### ब अदालत उप—पंजीकाध्यक्ष जोगिन्द्रनगर, जिला मण्डी (हिं० प्र०)

श्री रमेश कुमार पुत्र स्व० श्री शनिचरू राम, निवासी ढेलू, तहसील जोगिन्द्रनगर, जिला मण्डी (हिं० प्र०) वादी।

बनाम

आम जनता

प्रतिवादीगण।

दरख्वास्त बराये पंजीकरण वसीयतनामा जेर धारा 40—41 अधिनियम, 1938 के अन्तर्गत

श्री रमेश कुमार पुत्र स्व० श्री शनिचरू राम, निवासी ढेलू, तहसील जोगिन्द्र नगर, जिला मण्डी (हिं० प्र०) ने इस अदालत में प्रार्थना—पत्र गुजार कर अनुरोध किया है कि उसके पिता श्री रमेश कुमार पुत्र स्व० श्री शनिचरू राम पुत्र श्री भादर, निवासी झेलू ने एक वसीयतनामा अपने पुत्र रमेश कुमार पुत्र स्व० श्री शनिचरू राम, निवासी ढेलू के नाम कर रखी है जो अभी तक पंजीकृत नहीं हुई है तथा उसे अब पंजीकृत करने की प्रार्थना की है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि इस बारे में किसी व्यक्ति को उक्त वसीयत को पंजीकृत किये जाने बारे कोई उजर व एतराज हो तो वह दिनांक 26—05—2018 को प्रातः 10.00 बजे इस अदालत में असालतन व वकालतन हाजिर होकर पैरवी मुकद्दमा कर सकता है, अन्यथा नियमानुसार एक पक्षीय कार्यवाही अमल में लाई जाएगी।

आज दिनांक 25—04—2018 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—  
उप—पंजीकाध्यक्ष जोगिन्द्र नगर,  
जिला मण्डी (हिं० प्र०)।

## ब अदालत सहायक समाहर्ता प्रथम श्रेणी (तहसीलदार), नाहन, जिला सिरमौर, हिं प्र०

मिसल नं० 26/2018

तारीख मरजुआ 01-05-2018

ओम प्रकाश पुत्र श्री धोदी राम, निवासी ग्राम व डाकघर शम्भूवाला, तहसील नाहन, जिला सिरमौर, हिं प्र०।

बनाम

आम जनता

राजस्व कागजात मौजा शम्भूवाला तहसील नाहन, जिला सिरमौर, हिं प्र० में जाति दरुस्ती बारे प्रार्थना-पत्र।

ओम प्रकाश पुत्र श्री धोदी राम, निवासी ग्राम व डाकघर शम्भूवाला, तहसील नाहन, जिला सिरमौर, हिं प्र० ने इस अदालत में आवेदन-पत्र पेश किया कि पटवार वृत्त बनकला के कागजात माल मौजा शम्भूवाला, तहसील नाहन में प्रार्थी के परिवार की जाति डूम दर्ज की गई है जबकि प्रार्थी की जाति लोहार है। इस बारे क्षेत्रीय कानूनगो व ग्रामीण राजस्व अधिकारी द्वारा छानबीन करवाई गई जिसके अनुसार मिसल हकीयत 1962-63 में कौम लोहार दर्ज है। इन्तकाल नं० 123 अताम हक मलकियत स्वीकार मिति 12-05-1976 से धोदी, भरतू पुत्र छितरु मालिक बने जिसका अमल जमाबन्दी वर्ष 1975-76 में हुआ तथा शजरा नस्ब में जाति डूम दर्ज किए गए हैं। प्रार्थी राजस्व रिकार्ड में अपने परिवार की जाति डूम के स्थान पर लोहार दर्ज करवाना चाहता है। इस बारे प्रार्थी ने मिसल हकीयत, नकल परिवार रजिस्टर व शजरा नस्ब की छाया प्रतियां प्रस्तुत की हैं।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि जिस किसी को प्रार्थी के परिवार की जाति डूम के स्थान पर लोहार दर्ज करने बारे कोई आपत्ति हो तो वह दिनांक 26-05-2018 को प्रातः 10.00 बजे वकालतन व असालतन इस अदालत में हाजिर आकर अपना पक्ष प्रस्तुत कर सकते हैं। गैर-हाजरी की सूरत में कार्यवाही एकतरफा अमल में लाई जावेगी। बाद में किसी का कोई भी उजर/एतराज मान्य न होगा।

आज दिनांक 27-04-2018 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/-  
सहायक समाहर्ता प्रथम श्रेणी,  
नाहन, जिला सिरमौर, हिं प्र०।

**In the Court of Sh. H. S. Rana, H.A.S. Marriage Officer-cum-Sub-Divisional Magistrate,  
Paonta Sahib, District Sirmaur, Himachal Pradesh-173025**

**NOTICE UNDER SECTION 16 OF SPECIAL MARRIAGE ACT, 1954**

In the Matter of :

- Sh. Suresh Kumar s/o Sh. Deep Chand, r/o Village Kalatha, P.O. Badhana, Tehsil Paonta Sahib, District Sirmaur, H. P.
- Smt. Ruma Devi d/o Sh. Sunder Singh, r/o Village Danda Anj, Tehsil Paonta Sahib, District Sirmaur, H. P.

*Versus*

General Public

*Application for the registration of marriage under section 16 of Special Marriage Act, 1954 (Central Act) as amended by Marriage Laws (Amendment Act 01, 49 of 2001).*

Sh. Suresh Kumar s/o Sh. Deep Chand, r/o Village Kalatha, P.O. Badhana, Tehsil Paonta Sahib, District Sirmaur, H. P. and Smt. Ruma Devi d/o Sh. Sunder Singh, r/o Village Danda Anj, Tehsil Paonta Sahib, District Sirmaur, H. P. have filed an application alongwith affidavits in this court under section 16 of Special Marriage Act, 1954 on dated 29-11-2017 stating therein that they have solemnized their marriage on 28-11-2017 at their residence Village Kalathyha, Tehsil Paonta Sahib and they have living together as husband and wife ever since then. Hence notices are given to all concerned and general public to this effect that if anybody have any objection regarding the registration of marriage duly solemnized on 28-11-2017 between Sh. Suresh Kumar s/o Sh. Deep Chand, r/o Village Kalatha, P.O. Badhana, Tehsil Paonta Sahib, District Sirmaur, H. P. and Smt. Ruma Devi d/o Sh. Sunder Singh, r/o Village Danda Anj, Tehsil Paonta Sahib, District Sirmaur, H. P. he should file written objections and appear personally or through an authorized agent before this court within 30 days from the date of issue of this notice. After expiry of the said period, the marriage certificate would be issued to the applicants by this court.

Issued under my hand and office seal of this court on 30-11-2017.

Seal.

HARI SINGH RANA (HAS),  
*Marriage Officer-cum-Sub-Divisional Magistrate,  
 Paonta Sahib, District Sirmaur, H.P.*